

Dealer in Intangibles Tax Return 2012

Reminders Dealer In Intangibles

Am. Sub. House Bill 66 enacted by the 126th General Assembly in 2005 clarified the definition of a “dealer in intangibles” by specifying that a person must be engaged primarily in the specific activities that distinguish dealers in intangibles from other types of business. The legislation also clarified the procedures whereby dealers in intangibles may petition for review of penalties, and made available the venture capital tax credit to qualifying dealers in intangibles. Explanations of these changes and the impact they have in completing the dealer in intangibles tax return are listed below.

Definition of “Primarily”

The tax commissioner has adopted a rule clarifying “primarily” as used in the definition of a dealer in intangibles. The definition has been posted on the department’s Web site. **See Ohio Administrative Code 5703-3-32.**

Notification of Dealer Status Form

Effective for tax year 2006 and future years, this form is now required to be completed and submitted with Ohio form 980.

Clarification of Procedures for Review of Penalties

A penalty imposed on late-filed returns may be abated when it is shown that the failure to file timely is due to reasonable cause. A dealer in intangibles must file a petition for abatement of penalty within 60 days after the mailing of the notice of a penalty assessment. The petition must be filed with the tax commissioner, either in person or by certified mail. The petition shall include a true copy of the notice of assessment complained of, shall indicate that the only objection is to the assessed penalty, and shall provide the reason for such objection. **See Ohio Revised Code (R.C.) 5725.17(B) and 5711.28.**

Venture Capital Tax Credits for Qualifying Dealers in Intangibles

The existing tax credit for loans made to the program fund administered by the Venture Capital Authority is applicable to qualifying dealers in intangibles. Refundable and nonrefundable credits may be claimed by a qualifying dealer

in intangibles against its dealer in intangible tax liability for the calendar year specified on the tax credit certificate issued by the Venture Capital Authority. A copy of the tax credit certificate must be submitted at the time of filing. **See R.C. 5725.19.**

Taxability of Dealers Wholly Owned By an Insurance Company or Financial Institution

Anyone meeting the definition of a dealer in intangibles must file a tax return regardless if they are affiliated with an insurance company or financial institution. All tax paid by such entities shall be credited only to the general revenue fund. **See R.C. 5725.24 and 5733.45.**

How Commissions Are Sitused Within and Without Ohio

In determining commissions for a broker-dealer, the billing address shall be used to determine where the commission should be sitused. **See R.C. 5725.14(C).**

“All Other Receipts” Are No Longer Considered When Situsing “Gross Receipts” for All Dealers in Intangibles

R.C. 5725.14 no longer requires that a dealer in intangibles include 1% of all other receipts when determining gross receipts.

Ohio Historic Preservation Tax Credit

Those dealers in intangibles that incur expenses in rehabilitating historic buildings and obtain the appropriate tax credit certificate are eligible to claim a credit against their dealer in intangibles tax liability for the calendar year specified on the tax credit certificate issued by the Ohio Department of Development. **See R.C. 5725.151 and 149.311.**

Ohio Form 982 Eliminated

Due to Am. Sub. House Bill 153, enacted by the 129th General Assembly, requiring all dealer in intangibles taxes to be paid into the general revenue fund of the state Treasury, Ohio form 982 no longer will be required.

General Information and Instructions

Relating to Dealer in Intangibles Tax Return

Definition of a Dealer in Intangibles – R.C. 5725.01(B)

(1) "Dealer in intangibles" includes every person who keeps an office or other place of business in this state and engages at such office or other place in a business that consists primarily of lending money or discounting, buying or selling bills of exchange, drafts, acceptances, notes, mortgages or other evidences of indebtedness, or of buying or selling bonds, stocks or other investment securities, whether on his own account with a view to profit, or as agent or broker for others, with a view to profit or personal earnings. "Dealer in intangibles" excludes institutions used exclusively for charitable purposes, insurance companies and financial institutions. The investment of funds as personal accumulations or as business reserves or working capital does not constitute engaging in business within the meaning of this division; but a person who, having engaged in the business that consists primarily of lending money, or discounting, buying or selling bills of exchange, drafts, acceptances, notes, mortgages or other evidences of indebtedness on his own account, remains in business for the purpose of realizing upon the assets of such business is deemed a dealer in intangibles, though not presently engaged in a business that consists primarily of lending money or discounting or buying such securities.

Filing Requirements

All persons, partnerships, associations and corporations that are engaged in business as a dealer in intangibles Jan. 1 must file a dealer in intangibles tax return. The return must be filed with the tax commissioner, Attn: Excise, Motor Fuel and Public Utilities Tax Division, P.O. Box 530, Columbus, OH 43216-0530 no later than the second Monday of March, or as properly extended. A tax return is filed on the date the tax commissioner receives it or on the postmark date if the taxpayer files the tax by certified mail or by use of an authorized delivery service. See R.C. 5703.056.

Extension of Time

The tax commissioner may, upon verified request and for good cause shown, extend for a period not exceeding 30 days, the period during which a dealer in intangibles shall file their Ohio form 980, R.C. 5725.10. A written request for extension of time must be received at the address listed above or submitted via certified mail no later than the second Monday in March; be sure to include the proper business name, address, account number and stated cause. If requesting extensions for a consolidated return, each subsidiary and their federal employer identification number (FEIN) must be listed within the request.

Penalty for Late Filing

As provided by R.C. 5725.17, a penalty may be assessed equal to the greater of \$50 per month or fraction of a month, not to exceed \$500, or 5% per month or fraction of a month, not to exceed 50% of the tax required to be shown on the return for each month or fraction of a month elapsing between the due date and the date on which the return is filed.

Payment of Tax

No payment should be submitted with the return. For timely filed and properly extended returns, a statement of tax due will be issued by the Ohio Treasurer of State in early May.

Balance Sheet

The balance sheet on the reverse side of Ohio form 980 must be completed using a list date of Dec. 31st annually (R.C. 5725.14).

Consolidated Returns

An incorporated dealer in intangibles who owns or controls 51% or more of the common stock of another incorporated dealer in intangibles may by application request to file a consolidated return with the tax commissioner on or before the second Monday in March. If the application is granted, all subsidiary dealers in intangibles of 51% or more must be included. When a consolidated return is filed, it must include a list of the subsidiary dealers, FEIN, addresses and a consolidating balance sheet reflecting all subsidiaries and the intercompany eliminations (R.C. 5725.14).

Exhibit A

Exhibit A is used to adjust the net worth of the dealer to its fair value at Dec. 31. Items such as fixed assets, exchange memberships, stocks, investments, real estate and accounts receivable are examples of items listed on the balance sheet that need to be calculated at their fair value at Dec. 31. These items are netted against their book value and the result placed on line 2. The net addition or reduction is added or deducted from line 1. The result is the fair value, which is then carried to the front page of the return in the computation of tax section line 3, rounded to the nearest \$10.

Exhibit B

In the case of a dealer principally engaged in the business of lending money or discounting loans, gross receipts will consist of the aggregate amount of loans effected, discounted and renewed.

Exhibit B is used to determine the Ohio percentage of business for dealers in intangibles who generate loan business both in the state of Ohio and everywhere. (Dealers who only operate within the state do not need to complete this section.) The total amount of loan business conducted for the year in Ohio is divided by the total of loan business for the year everywhere. This percentage is then multiplied by the total from line 3 of Exhibit A. This value is then forwarded to the front of the return (line 3) to compute the amount of tax due.

Business may not be allocated within and without Ohio unless the dealer maintains separate office locations both within and without Ohio. Independent agents who solicit business out of Ohio and forward it to an Ohio office must allocate that portion to Ohio. Employees of the dealer who solicit business out of state but report to the Ohio office must also allocate all business to Ohio.

Receipts from business originating in one office and consummated at another office shall be divided equitably between such offices, and a special memorandum or schedule must be furnished disclosing the amount of such receipts together with the office location.

Exhibit C

In the case of a dealer engaged primarily in the business of dealing in securities as principal, broker or both, gross receipts shall consist of the aggregate amount of commissions charged for business done at each office, divided by 100% of commissions charged everywhere. The billing address should be used to determine where the commission should be situated. Line 3, Exhibit A, is then multiplied by the percentage obtained from this calculation.

Exhibit D

A dealer in intangibles that predominately makes loans and carries a reserve on its books for receivables will use Exhibit D. It is used to establish a fair value for accounts receivable at Dec. 31 for those dealers that carry a reserve. The formula develops a uniform amount of reserves taken against the gross accounts receivable balance. The calculation first takes the total amount of bad debts charged off for the preceding five years, less total recoveries for the preceding five years. This total is divided by the total amount of loans effected, discounted and renewed for the preceding five years for which the dealer maintains a bad debt reserve. (A "discounted" loan is a loan on which the interest and other charges are deducted from the face amount of the loan when the loan is made.) To the resulting percentage, add 1/2 of 1% as .5% or .005 as a correction factor. This total percentage will be applied to the gross amount of accounts and notes receivable listed on the current year's balance sheet. The calculated allowable bad debt reserve is compared to the bad debt reserve taken on the current year's balance sheet, and the difference between the two is carried to the summary sheet as an increase or decrease to fair value.

Ohio Form 937DI

The tax commissioner has prescribed composite annual allowances for computing the fair value of various depreciable property. For dealers in intangibles, property such as office furniture and equipment, leaseholds and autos have been designated as Class 3 property. Computers and their online

<u>Age</u>	<u>Class 3</u>	<u>Stand-Alone Computer Class</u>
1	93.2	75.0
2	82.8	60.0
3	72.4	45.0
4	62.0	30.0
5	51.5	15.0
6	42.2	15.0
7	36.3	15.0
8	30.5	15.0
9	24.6	15.0
10+	18.8	15.0

peripheral equipment have been designated as having a five-year class life. Ohio form 937DI is used to arrive at the fair value. The rates for those classes are listed below. The increase or decrease from book value to fair value is carried to the summary sheet.

Fair Value Claim

In the event the fair value of any item of taxable property is less than the book value as reflected on the balance sheet, a claim for deduction from book value must be submitted in writing at the time of filing the tax return. The claim should disclose the reasons and computations for determining the claimed fair value. The burden of substantiating the claimed fair value rests with the taxpayer.

Exchange Memberships

Memberships and stock exchange seats used in business must be returned at their fair value as of Dec. 31st annually. The difference between the book value and the fair value at Dec. 31 will be carried to the summary sheet.

Unincorporated Dealers in Intangibles

Unincorporated dealers in intangibles may deduct investments exempt under Ohio law from the value of capital employed, provided such investments are held on Dec. 31. Tax-exempt investments include obligations issued and backed by the federal government, territories or districts and the following Ohio bonds: Vietnam War Bonus, Turnpike, Major Thoroughfare Construction, Bridge Commission, Highway Improvement Construction, Underground Parking, Capital Improvement Construction, General Obligation, Public Housing Authority, etc. Municipal bonds are not exempt.

When taxable property has been converted into nontaxable bonds and securities after Oct. 31 and is still held on Dec. 31, the value of the nontaxable bonds and securities as of the date of conversion must be reflected on line 2 of the computation of tax on the front page of Ohio form 980.

Ohio Form 982

Ohio form 982 is to be submitted by each dealer in intangibles maintaining an office in more than one Ohio county. The taxpayer should list each county it maintains offices in and the total amount of gross receipts for that office. This form does not need to be filed by a qualifying dealer.

Ohio Form 984

Ohio form 984 is to be submitted with Ohio form 980 for those taxpayers who list investments on line 2 of the balance sheet. This form must list the name of the investment, the book value and the market value of the investment at Dec. 31st. The difference between book and market should be listed on the summary sheet.

Leased Property

Any dealer in intangibles that leases tangible personal property to a public utility pursuant to R.C. 5727.01(M) must separately list and return such property under the provisions of R.C. Chapter 5727.

Credits

Credit for eligible employee training costs may be claimed against the dealer in intangibles tax liability. See R.C. 5725.31.

Venture capital tax credits may be claimed by a qualifying dealer in intangibles against its dealer in intangibles tax liability. See R.C. 5725.19.

Ohio Historic Preservation Tax Credit

Historic preservation tax credit may be claimed against the dealer in intangibles tax liability. See R.C. 5725.151.

Information

Any question relative to the filing of the dealer in intangibles tax return or the procurement of forms must be addressed to the Department of Taxation, Attn: Excise, Motor Fuel and Public Utilities Tax Division, P.O. Box 530, Columbus, OH 43216-0530 or call (614) 752-7413. Visit the department's Web site at tax.ohio.gov for additional forms.



Notification of Dealer Status

Ohio Administrative Code 5703-3-32, effective Dec. 30, 2005, defines the term "primarily" as it is used in Ohio Revised Code 5725.01(B)(1) for determining whether a taxpayer's business activities qualify that taxpayer as an Ohio dealer in intangibles. Please provide the information requested below in the category that pertains to your business situation to determine whether you qualify as an Ohio dealer in intangibles.

1. Complete this section if you had an office or other place of business in Ohio at the end of calendar year 2009, 2010 and 2011.

a. 2009 dealer activity gross income _____ 2009 total gross income _____

b. 2010 dealer activity gross income _____ 2010 total gross income _____

c. 2011 dealer activity gross income _____ 2011 total gross income _____

You are a potential dealer in intangibles if your gross income from dealer activities exceeded 50% of your total gross income in at least two of these three calendar years. If you do not meet this test, you may complete section 3.

2. Complete this section if you do not qualify under section 1 but had an office or other place of business in Ohio at the end of calendar year 2011 or were a new taxpayer in calendar year 2011.

a. 2011 dealer activity gross income _____ 2011 total gross income _____

You are a potential dealer in intangibles if your gross income from dealer activities exceeded 50% of your total gross income in calendar year 2011. If you do not meet this test, you may complete section 3.

3. If you do not meet the test under section 1 or 2 and you had an office or other place of business in Ohio at the end of calendar year 2011, you may provide information on why you still should be considered a potential dealer in intangibles. Please provide the following:

a. A written statement demonstrating that your business consists primarily of dealer activities based upon the totality of your circumstances. The statement should contain **details of the specific circumstances** that demonstrate that your business consists primarily of dealer activities. Failure to provide this information could result in the tax commissioner denying status as a dealer in intangibles.

If you have questions regarding the completion of this form, please contact Gary Sweeney at (614) 752-7413.



Dealer in Intangibles Tax Return

Consolidated Single county Inter-County Account number

Taxpayer name Address City State ZIP Business name Ohio county business location Date business started in Ohio Description of Ohio business

Check here if you are a "qualifying dealer" (see R.C. 5725.24 and 5733.45). Generally, a qualifying dealer is a dealer in intangibles that is a subsidiary of a financial institution or insurance company. If you are a qualifying dealer, you do not need to complete Ohio form 982.

Received Stamp Time Extension Permit No. granted To April 11, 2012

Ohio charter number FEIN Social Security number Type of business: Corporation S corporation Partnership Other

- 1. Ohio proportion of taxable value of shares or invested capital (from Balance Sheet or Exhibits A, B or C)
2. Value of nontaxable bonds and securities as of date of conversion
3. Total taxable value in Ohio (line 1 plus line 2) rounded to the nearest \$10
4. Tax payable (line 3 multiplied by .008) to nearest .01
5. Credit for eligible employee training costs
6. Venture capital tax credits
a. refundable credit
b. nonrefundable credit
7. Ohio historic preservation tax credit
8. Total tax payable

\$ \$ \$ \$ \$ \$ \$ \$ \$ \$

Do not send a check with this tax return. You will be billed.

9. Penalty

\$

The Department of Taxation must receive this tax return no later than March 12, 2012.

D.E. verification

Declaration

I/we declare under penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me/us and to the best of my/our knowledge and belief is a true, correct and complete return and report.

Person, other than taxpayer, preparing this return Date Address Phone number

Signature of taxpayer Title Date Print name of taxpayer Date Phone number



Balance Sheet as of Dec. 31, 2011

Table with 3 main sections: Assets (lines 1-15), Liabilities (lines 16-23), and Capital (lines 24-30). Each section includes a 'Line No.' column and a description of the asset, liability, or capital item, with a dollar sign and a blank line for the amount.



**Exhibit A – Reconciliation of Book Value to the Market or
Fair Value of Shares or Invested Capital (Ohio Revised Code 5725.15)**

Line No.	Item	
1.	Book value of shares or invested capital (B/S line 29)	\$ _____
2.	Increase or decrease to fair or market value (from summary sheet)	\$ _____
3.	Taxable value (carry to page 1, line 1, or line 3, Exhibit B or C below).....	\$ _____

Exhibit B – Ohio Proportion of Taxable Value of Shares or Invested Capital (for dealers other than brokers) Enter below the total of loans effected, discounted and renewed during the year ended Dec. 31, 2011.

Line No.	Item	(1) Ohio	(2) Total
1.	Total of loans effected, discounted and renewed.....	\$ _____	\$ _____
2.	Percentage allocable to Ohio (column 1 ÷ by column 2)		_____ %
3.	Taxable value of shares or invested capital (B/S line 29 or line 3 of Exhibit A).....		\$ _____
4.	Ohio proportion of taxable value of shares or invested capital (line 2 x line 3. Carry to page 1, computation of tax, line 3)		\$ _____

Exhibit C – Ohio Proportion of Taxable Value of Shares or Invested Capital (for brokers only)
Enter below the aggregate amounts of all commissions charged during the calendar year ending Dec. 31, 2011.

Line No.	Item	(1) Ohio	(2) Total
1.	Aggregate amount of commissions charged	\$ _____	\$ _____
2.	Percentage allocable to Ohio (column 1 ÷ column 2)		_____ %
3.	Taxable value of shares or invested capital (line 3 of Exhibit A)		\$ _____
4.	Ohio proportion of taxable value of shares or invested capital (line 2 x line 3. Carry to page 1, computation of tax, line 3)		\$ _____

Exhibit D – Each Dealer in Intangibles, Other Than Brokers, Must Furnish the Following Information Relative to Aggregate Amount of Loans Effected, Discounted and Renewed

Calendar Year	Aggregate Amount of Loans Effected, Discounted & Renewed	Bad Debts Charged Off	Recovery of Bad Debts Charged Off
2007			
2008			
2009			
2010			
2011			
Totals			



Dealer in Intangibles

Summary Worksheet for Exhibit A, Line 2

Instructions

This worksheet is a tool to be used to capture all adjustments to fair value at Dec. 31. It is a gathering worksheet to list the financial book value for all accounts that have an adjustment to bring it to its fair value at Dec. 31. Compare the financial

book value to the fair value and place the increase or decrease in the difference column. This total is the value that is placed on line 2 of Exhibit A as a company-wide increase or decrease to arrive at a taxable value.

Account	Balance Sheet Value	Fair Value	Difference
Investments			
Accounts Receivable			
Real Estate			
Total Fixed Assets			
Memberships			
Net Worth			
Other Fair Value Adjustments			
Carry total to line 2, Exhibit A.			
			Total



Exhibit E – Leased Equipment

Dealers owning and leasing or holding for lease tangible personal property shall enter a description of the property, including book value, the name of the lessee, and the Ohio county where the property is physically located and used in business on Dec. 31, 2011.

Table with 4 columns: Description, Book Value, Lessee, Ohio County Location. Multiple empty rows for data entry.

Taxpayer Identification

Please type or print the name, address and telephone number of the person to be contacted during our examination of this return.

Name _____ Title _____

Address _____

Telephone _____

This tax return, and accompanying exhibits, should be received no later than March 12, 2012 by the Department of Taxation. (Do NOT send payment.)

Mail to: Ohio Department of Taxation, Excise, Motor Fuel and Public Utility Tax Division, P.O. Box 530, Columbus, OH 43216-0530

- OR -

Deliver to: Rhodes State Office Tower, 30 E. Broad Street, 19th Floor, Columbus, OH 43215

True Value Computation – Stand-Alone Computers

Ohio form 937DI, True Value Computation, provides a consistent method for determining the aggregate fair value for dealers in intangibles' total depreciable assets, company-wide, inside and outside Ohio.

Costs of depreciable property at the end of the previous year are to be shown by year of acquisition for the entire entity (column 2). Additions and disposals occurring during the year are to be entered at cost, across the year in which they were acquired (column 3, column 4). The resulting costs remaining at year-end are then listed (column 5); their total must equal the beginning of the year total plus additions, less disposals. The valuation percentages for the specified class of property are listed in column 6. Each year-end cost is then multiplied by the corresponding valuation percentage and the product placed in column 7. Total column 7 and that

will be the fair value of the depreciable assets. Compare the total fair value of the depreciable assets to the book value of those same assets on the Dec. 31 balance sheet and place the increase or decrease to fair value on line 2 in Exhibit A of Ohio form 980.

For dealers in intangibles, depreciable property under this class life consists mainly of office computers.

Full costs must be shown. Cost column totals must reconcile with ledger accounts, except that property written off the records but still physically on hand must be included in the computation, and properly disposed of but not written off the records should be deducted. These exceptions should be separately identified in the computation.

Sample Computation for 2012 Return Illustrating Application of Stand-Alone Computers

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Year Acquired	Cost at End of 12-31-10	Additions	Disposals	Cost at End of 12-31-11	Percent	True Value Amount \$
2011		\$641,310		\$641,310	75%	\$480,983
2010	\$434,040			434,040	60%	260,424
2009	301,032		\$201,032	100,000	45%	45,000
2008	277,736			277,736	30%	83,321
2007	2,393,633		444,943	1,948,690	15%	292,304
2006 and prior					15%	
Total	3,406,441	\$641,310	645,975	\$3,401,776	Fair Value =	\$1,162,032

Carry Total True Value to Summary Sheet.



Stand-Alone Computer True Value Computation

Company:						
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Year Acquired	Cost at End of 12-31-10	Additions and Transfers In	Disposals and Transfers Out	Cost at End of 12-31-11	Percent	True Value Amount \$
2011					75%	
2010					60%	
2009					45%	
2008					30%	
2007					15%	
2006 and prior					15%	
Total					Fair/True Value = \$	

True Value Computation – Class Life III

Ohio form 937DI, True Value Computation, provides a consistent method for determining the aggregate fair value for dealers in intangibles' total depreciable assets, company-wide, inside and outside Ohio.

Costs of depreciable property at the end of the previous year are to be shown by year of acquisition for the entire entity (column 2). Additions and disposals occurring during the year are to be entered at cost, across the year in which they were acquired (column 3, column 4). The resulting costs remaining at year-end are then listed (column 5); their total must equal

the beginning of the year total plus additions, less disposals. The valuation percentages for the specified class of property are listed in column 6. Each year-end cost is then multiplied by the corresponding valuation percentage and the product placed in column 7. Total column 7 and that will be the fair value of the depreciable assets. Compare the total fair value of the depreciable assets to the book value of those same assets on the Dec. 31 balance sheet and place the increase or decrease to fair value on the summary worksheet.

Sample Computation for 2012 Return Illustrating Application of Class III Percentages

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Year Acquired	Cost at End of 12-31-10	Additions	Disposals	Cost at End of 12-31-11	Percent	True Value Amount \$
2011		\$641,310		\$ 641,310	93.2%	\$ 597,701
2010	\$434,040			434,040	82.8%	359,385
2009	301,032		\$201,032	100,000	72.4%	72,400
2008	277,736			277,736	62.0%	172,196
2007	201,033			201,033	51.5%	103,532
2006	147,001			147,001	42.2%	62,034
2005	421,066			421,066	36.3%	152,847
2004	234,175			234,175	30.5%	71,423
2003	148,622			148,622	24.6%	36,561
2002 and prior	2,010,836		333,421	1,677,415	18.8%	315,354
Total	\$4,175,541	\$641,310	\$534,453	\$4,282,398	Fair/True Value = \$1,943,433	

Carry Total Fair/True Value to Summary Sheet.



True Value Computation Office Equipment, Autos, Leaseholds – Class III

Table with 7 columns: (1) Year Acquired, (2) Cost at End of 12-31-10, (3) Additions and Transfers In, (4) Disposals and Transfers Out, (5) Cost at End of 12-31-11, (6) Percent, (7) True Value Amount \$. Includes rows for years 2011-2002 and prior, and a Total row with a Fair/True Value = \$ calculation.

